

This letter lists the uses of gas that are exempt from Gas Use Tax liability. See 35 ILCS 173/5-50. (This is a GIL).

February 6, 2004

Dear Xxxxx:

This letter is in response to your letter dated September 17, 2003, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Would the purchase of natural gas that will be used in the production of ammonium nitrate be exempt from gas use tax?

DEPARTMENT'S RESPONSE:

Section 5-50 of the Gas Use Tax Law sets out the only uses of gas that are not subject to Gas Use Tax as follows:

Sec. 5-50. Exemptions. The tax imposed under this Act shall not apply to:

(1) Gas used by business enterprises located in an enterprise zone certified by the Department of Commerce and Economic Opportunity pursuant to the Illinois Enterprise Zone Act;

(2) Gas used by governmental bodies, or a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes. Such use shall not be exempt unless the government body, or corporation, society,

association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes has first been issued a tax exemption identification number by the Department of Revenue pursuant to Section 1g of the Retailers' Occupation Tax Act. A limited liability company may qualify for the exemption under this Section only if the limited liability company is organized and operated exclusively for educational purposes. The term "educational purposes" shall have the same meaning as that set forth in Section 2h of the Retailers' Occupation Tax Act;

(3) Gas used in the production of electric energy. This exemption does not include gas used in the general maintenance or heating of an electric energy production facility or other structure;

(4) Gas used in a petroleum refinery operation;

(5) Gas purchased by persons for use in liquefaction and fractionation processes that produce value added natural gas byproducts for resale;

(6) Gas used in the production of anhydrous ammonia and downstream nitrogen fertilizer products for resale.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
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